

- V. Claims 37-52, drawn to a method of heating dialysis fluid with first and second heaters, classified in class 604, subclass 28.

Applicants elect with traverse Group I, Claims 1 to 7, 13, 18 to 22 and 27 to 36.

The restriction/election requirement also requires Applicants to elect one of the following species under 35 U.S.C. § 121:

Species 1 drawn to infrared absorption material on opposing side of an infrared transmissive from infrared heater, species 2 drawn to infrared reflective material on opposing side of an infrared transmissive from infrared heater, species 3 drawn to transmissive material and plate heater adjacent same flexible membrane, species 4 drawn to transmissive material and plate heater adjacent different flexible material, species 5 drawn to in-line heating, species 6 drawn to heating in first and second containers, species 7 drawn to heating 125 ml/min 5-37 degrees C, species 8 drawn to heating 2 liters from 10 degrees C in 13 minutes, species 9 drawn to heaters in the fluid transfer device, species 10 drawn to heaters not in fluid transfer device, species 11 drawn to recirculating dialysis fluid, species 12 drawn to no recirculation, species 13 drawn to infrared and secondary heating of same portion of dialysis fluid, species 14 drawn to first and secondary heating subsequently, species 15 drawn to fluid container connected to a pump, species 16 drawn to fluid container connected to a bulk container, species 17 drawn to applying energy includes reflecting or absorbing heat, species 18 drawn to applying energy includes cooling the heat source, species 19 drawn to heating device that is an infrared heater, species 20 drawn to a heating device that is an infrared and secondary heaters.


Applicants are further required to list all claims readable on the elected species. Still further, Applicants are required to make an election of the invention to be examined.

Applicants elect, with traverse, species 13, radiant and secondary heating of dialysis fluid but traverse the portions of the species calling for the "same portion" of the dialysis fluid to be heated and for radiant energy to be limited to infrared energy. Such language stands potentially to unduly limit the claims and Applicants wish any further proceeding of this case to be with the understanding that the claim language controls the scope of the claims, not the name given to the species. Notwithstanding the above-stated reason for traverse, Applicants submit that Claims 1 to 7, 13 to 22, 27 to 36 and 43 to 52 are readable on the modified elected species. Applicants further elect the invention to be medical fluid heating using radiant energy and a second source.

Applicants traverse also concerns the finding that no claims are generic. Applicants respectfully submit that the elected claims are generic with respect to many of the species designated above.

Respectfully submitted,

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